

From the INTERNATIONAL BUREAU

**PCT**

NOTIFICATION OF TRANSMITTAL  
OF COPIES OF TRANSLATION  
OF THE INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY  
(CHAPTER I OR CHAPTER II  
OF THE PATENT COOPERATION TREATY)  
(PCT Rules 44bis.3(c) and 72.2)

To:

**Weickmann & Weickmann**  
**E** **8. JUNI 2007**  
**Patentanwalte**

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Date of mailing (day/month/year) 31 May 2007 (31.05.2007)	
Applicant's or agent's file reference 34398P WO	<b>IMPORTANT NOTIFICATION</b>
International application No. PCT/EP2005/012101	International filing date (day/month/year) 11 November 2005 (11.11.2005)
Applicant MAX-PLANCK-GESELLSCHAFT ZUR FÖRDERUNG DER WISSENSCHAFTEN E.V. et al	

**1. Transmittal of the translation to the applicant.**

The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

**2. Transmittal of the copy of the translation to the designated or elected Offices.**

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

None

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KM, KN, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, LY, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NG, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SM, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

**3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).**

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO  
34, chemin des Colombettes  
1211 Geneva 20, Switzerland

Authorized officer

Ellen Moyse

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 34398P WO	<b>FOR FURTHER ACTION</b>	See item 4 below
International application No. PCT/EP2005/012101	International filing date ( <i>day/month/year</i> ) 11 November 2005 (11.11.2005)	Priority date ( <i>day/month/year</i> ) 11 November 2004 (11.11.2004)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant MAX-PLANCK-GESELLSCHAFT ZUR FÖRDERUNG DER WISSENSCHAFTEN E.V.		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 7 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Box No. I   | Basis of the report   |
| <input checked="" type="checkbox"/> Box No. II  | Priority  |
| <input checked="" type="checkbox"/> Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |
| <input type="checkbox"/> Box No. IV             | Lack of unity of invention  |
| <input checked="" type="checkbox"/> Box No. V   | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> Box No. VI             | Certain documents cited   |
| <input type="checkbox"/> Box No. VII            | Certain defects in the international application  |
| <input type="checkbox"/> Box No. VIII           | Certain observations on the international application   |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

Date of issuance of this report  
22 May 2007 (22.05.2007)

Authorized officer

Ellen Moyse

e-mail: pt05.pct@wipo.int

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# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

**TRANSLATION**  
**PCT**

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing **See form PCT/ISA/210**  
(day/month/year)

Applicant's or agent's file reference

**34398P WO**

**FOR FURTHER ACTION**

See paragraph 2 below

International application No.

**PCT/EP2005/012101**

International filing date (day/month/year)

**11.11.2005**

Priority date (day/month/year)

**11.11.2004**

International Patent Classification (IPC) or both national classification and IPC

**A61K8/19, A61K8/21, A61K8/24, A61K8/34, A61K8/65, A61K8/73,  
A61Q11/00, A61K6/00, A61K6/027, A61K6/06**

Applicant

**MAX-PLANCK-GESELLSCHAFT ZUR FÖRDERUNG DER WISSENSCHAFTEN E.V.**

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2005/012101

Box No. I Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐

This opinion has been established on the basis of a translation from the original language into the following language  
\_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).

2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐

a sequence listing

☐

table(s) related to the sequence listing

b. format of material

☐

in written format

☐

in computer readable form

c. time of filing/furnishing

☐

contained in the international application as filed.

☐

filed together with the international application in computer readable form.

☐

furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2005/012101

Box No. II

Priority

1. ☒ The following document has not yet been furnished:

- ☐ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).  
☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date in the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

The validity of the priority claim has not been considered because the International Searching Authority does not have in its possession a copy of the earlier application whose priority has been claimed or, where required, a translation of that earlier application. This opinion has nevertheless been established on the assumption that the relevant date (Rules 43bis.1 and 64.1) is the claimed priority date.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2005/012101

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application

☒ claims Nos. 27 (in part)

because:

☐ the said international application, or the said claims Nos. \_\_\_\_\_  
relate to the following subject matter which does not require an international preliminary examination (*specify*):

PCT Rule 39.1(iv) - Method for the treatment of the human or  
animal body by therapy -

Claim 27

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. \_\_\_\_\_  
are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. \_\_\_\_\_ are so inadequately supported  
by the description that no meaningful opinion could be formed.

☒ no international search report has been established for said claims Nos. 27 (in part)

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

☐ has not been furnished

☐ does not comply with the standard

the computer readable form

☐ has not been furnished

☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

☐ See Supplemental Box for further details.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2005/012101

Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
<b>1. Statement</b>			
Novelty (N)	Claims	<u>27</u>	YES
	Claims	<u>1-26, 28</u>	NO
Inventive step (IS)	Claims	<u>27</u>	YES
	Claims	<u>1-26, 28</u>	NO
Industrial applicability (IA)	Claims	<u>1-26, 28</u>	YES
	Claims	<u></u>	NO
<b>2. Citations and explanations:</b>			
<b>1 Reference is made to the following documents:</b>			
D1: WO 03/099234 A			
<b>2 INDEPENDENT CLAIMS 1, 24, 25, 28</b>			
<p>2.1 The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1 is not novel within the meaning of PCT Article 33(2).</p> <p>2.2 Document D1 discloses the induced remineralization of human dental enamel and build-up of apatite on dental material. It discloses the use (i) of a first gel which comprises gelatin and phosphate ions, (ii) of a second gel which is free from phosphate ions, where the first gel layer is covered with this second gel, and (iii) a medium containing calcium ions, for producing a composition for growing apatite on dental material. The medium containing calcium ions preferably has a pH of 6 to 8 (<i>an alkaline medium</i>) (see D1, page 10, lines 19-20; examples; claims).</p>			
<b>3 INDEPENDENT CLAIM 27</b>			
<p>The method for growing apatite on dental material, comprising the steps</p> <p>(i) application of an alkaline medium</p> <p>(ii) application of a first gel which comprises gelatin and phosphate ions, and</p> <p>(iiia) application of a second gel, where the first gel layer is</p>			

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2005/012101

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

covered with this second gel, and/or  
(iiib) application of a medium containing calcium ions,  
where a build-up of apatite on the surface of the dental material is  
effected (see claim 27), is novel within the meaning of PCT Article  
33(2).

Surprisingly, it has been found that by pretreating the dental  
material with an alkaline medium (preferably a pH from 8 to 9) it is  
possible to achieve a significant increase in the growth rate of  
fluoroapatite on tooth samples.

D1 does not disclose such an improvement of a method for growing  
apatite on dental material.

Therefore, the subject matter of claim 27 involves an inventive step  
within the meaning of PCT Article 33(3).

**4       DEPENDENT CLAIMS 2-23, 26**

Claims 2-23, 26 do not contain any features which, in combination  
with the features of any claim to which they refer, meet the PCT  
requirements for novelty and inventive step.